

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

10 CIV. 9074

Joseph Robert Dellutri, P.E.

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

-against-

- 1) New York City Police Department (a.k.a. NYPD), et al.
- 2) New York City Police Officer Brian Rao (Shield# 25998)
- 3) New York City Police Officer Isaac Branch (Shield# 13238)
- 4) New York City Police Officer Kelly Wheeler (Shield# 27424)
- 5) New York City Police Officer Paul Molinaro (Shield# 18969)
- 6) New York City Police Officer Gregory Abbott (Shield# 1129)

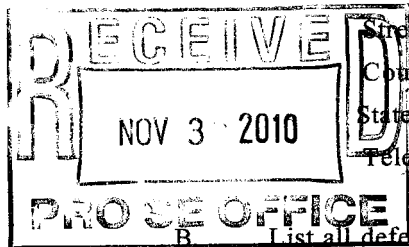
Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Joseph Robert Dellutri, P.E.



Street Address

County, City

State & Zip Code

Telephone Number

List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name See Attachement A for list of six (6) defendants

Street Address

Attachment A

Defendant No. 1

Name New York City Police Department (a.k.a. NYPD), et al.
Street Address 1 Police Plaza
County, City New York, New York
State & Zip Code New York, 10038-1403
Telephone Number 1-646-610-6735; 1-646-610-5000

Defendant No. 2

Name New York City Police Officer Brian Rao (Shield# 25998)
Street Address 233 W. 10th Street (6th Precinct)
County, City New York, New York
State & Zip Code New York 10014-2978
Telephone Number 1-212-741-4811

Defendant No. 3

Name New York City Police Officer Isaac Branch (Shield# 13238)
Street Address 233 W. 10th Street (6th Precinct)
County, City New York, New York
State & Zip Code New York 10014-2978
Telephone Number 1-212-741-4811

Defendant No. 4

Name New York City Police Officer Kelly Wheeler (Shield# 27424)
Street Address 233 W. 10th Street (6th Precinct)
County, City New York, New York
State & Zip Code New York 10014-2978
Telephone Number 1-212-741-4811

Defendant No. 5

Name New York City Police Officer Paul Molinaro (Shield# 18969)
Street Address 233 W. 10th Street (6th Precinct)
County, City New York, New York
State & Zip Code New York 10014-2978
Telephone Number 1-212-741-4811

Defendant No. 6

Name New York City Police Officer Gregory Abbott (Shield# 1129)
Street Address 233 W. 10th Street (6th Precinct)
County, City New York, New York
State & Zip Code New York 10014-2978
Telephone Number 1-212-741-4811

County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 2 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? U.S.C. 1983 - 14th Amendment - (4th Amendment - Unreasonable Search & Seizure)

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events.

You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? Washington Square Park in Greenwich Village, Manhattan, New York City and "The Tombs" Prison on Baxter Street, Lower Manhattan, New York City

B. What date and approximate time did the events giving rise to your claim(s) occur? December 6, 2008 approximately 2:00pm through December 7, 2008 approximately 5:30pm

C. Facts: I was playing my guitar while seated on a park bench. The bench was attached to a table with a similar bench attached to the other side of the table. 3 men were seated on this other bench. A plainclothes police officer approached, looked at the 3 men, not at me, and said the following words or words essentially similar: "Everyone at this table is under investigation for possibly taking part in an illicit drug deal. You have just been observed on police camera." Although he did use the word "everyone", I assumed he meant all the people possibly engaging in illicit drug activity. Since I could never be observed engaging in such activity, was not engaging, nor planned to engage in it, I stood up, began to collect my belongings, and started to walk away. He unjustifiably said "Wait! Where are you going? Get back here! You're under investigation too!" He unjustifiably threw me to the ground, unjustifiably searched my person and my belongings against my wishes thereby violating my constitutional right to be secure against unreasonable searches and seizures as afforded to me by the 4th and 14th amendments to the United States Constitution. When I went to complain to a uniformed officer nearby, the officer arrested me on a trumped-up charge of damaging police property. I was kept in jail for approximately 26 hours. When I appeared before the judge, she said the public defender could not represent me free of charge because my income was too high. I said "I'll defend myself pro se." She said either plead guilty or hire a lawyer. Since I could not afford to hire a lawyer, I pleaded guilty.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Some injuries to my left wrist. It was my wish to receive no medical treatment. Therefore none was asked for, and none was received.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. For the five (5) named police officers, I would like the court to cause:

- 1) the immediate revocation of any and all federal, state and local firearm permits issued to them;
- 2) their immediate dismissal from the NYPD force, with no possibility of working in the police or security industry;
- 3) the immediate forfeiture of their entire NYPD retirement pension;
- 4) [if the court will not grant the request in line item 3) above] a percentage [as determined by the court] of their retirement pension to be paid to me, or in the event of my demise, to my estate for as long as their pensions shall remain valid, whether in full or in part, as a reminder to them of the egregious harm they've perpetrated on me and my family;
- 5) The sum of ten (10) million U.S. dollars for continual suffering, mostly in the form of mental anguish and loss sleep; and resulting physical disorders.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30th day of November, 2010.

Signature of Plaintiff

Mailing Address

Telephone Number

Fax Number (if you have one) _____

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____

Inmate Number _____